

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CARL S. JONES, JR., ANTHONY)	
LEE, COURDE DAYE, DAELON)	
HILL-JOHNSON, DANIEL)	
MILES, DEVIN HALE, GERON)	
ANDERSON, JAQUE DAVID,)	Civil Action No. 21-1094
JERMAINE DEHONNEY, JUAN)	
HAYDEN, MARIO WALL,)	
MARTELL SMITH, ROMAN)	
JONES, STEPHEN DAY, and)	District Judge W. Scott Hardy
WILLIAM FIELDER,)	Magistrate Judge Lisa Pupo Lenihan
)	
Plaintiffs,)	
)	
v.)	
)	
COUNTY OF ALLEGHENY and)	
WARDEN ORLANDO HARPER,)	
)	
Defendants.)	

MEMORANDUM ORDER

This matter comes before the Court on the Report and Recommendation (“R&R”) entered by Magistrate Judge Lisa Pupo Lenihan on June 24, 2022. (Docket No. 96). As background, the case was initiated by Plaintiff Carl S. Jones, Jr. on behalf of himself and 29 other individuals who currently are, or formerly were, confined at the Allegheny County Jail (“ACJ”). The Complaint alleges that Defendants County of Allegheny and Warden Orlando Harper took insufficient precautions at the ACJ to protect Plaintiffs from the COVID-19 virus which caused them to become infected with the virus. (*See* Docket No. 6). Consequently, Plaintiffs assert an Eighth and Fourteenth Amendment conditions of confinement claim against Warden Harper and the County of Allegheny, and a Fourteenth Amendment equal protection claim against Warden Harper. Liberally construing the Complaint, Plaintiff Jones also appears to be alleging a First Amendment

retaliation claim against Warden Harper. Defendants have filed a Motion to Dismiss the Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). (Docket No. 75). The R&R recommends that Defendants' Motion to Dismiss be granted as to all remaining Plaintiffs. (Docket No. 96 at 1, 16).

Service of the R&R was made on Defendants through the Court's CM/ECF system, and any objections to same were due by July 8, 2022. Service of the R&R was made on Plaintiffs by mail, and any objections were due by July 11, 2022. Thereafter, no party filed any objections to the R&R.

The Federal Rules of Civil Procedure provide that a party may file specific written objections to the proposed findings and recommendations of a magistrate judge, and a district judge must conduct a *de novo* review of any part of the R&R that has been properly objected to. Fed. R. Civ. P. 72(b)(2), (b)(3); 28 U.S.C. § 636(b)(1). Here, however, because no party filed any objections to the R&R, this Court reviews the magistrate judge's decision for plain error. *See Tice v. Wilson*, 425 F. Supp. 2d 676, 680 (W.D. Pa. 2006); *see also* Fed. R. Civ. P. 72(b), Advisory Committee Notes ("When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.").

In this case, upon careful review of the R&R and the entire record, including Plaintiffs' Complaint, Defendants' Motion to Dismiss and supporting brief, Plaintiff Jones' Response in opposition, Defendants' Reply, and Plaintiff Jones' Sur-reply (Docket Nos. 6, 75, 76, 91, 92, 95, 97), and finding no plain error on the face of the record, the Court will accept Judge Lenihan's recommendation.¹ As such, the Court will adopt the R&R as the Opinion of the Court, and will grant Defendants' Motions to Dismiss as more specifically set forth below.

¹ Although only Plaintiff Jones responded to Defendants' Motion to Dismiss, the Court's analysis set forth in the R&R and adopted herein is equally applicable to all remaining Plaintiffs who failed to respond.

Accordingly, in view of the foregoing, the Court enters the following Order:

AND NOW, this 18th day of July, 2022, IT IS HEREBY ORDERED that the R&R (Docket No. 96) is ADOPTED as the Opinion of the Court;

For the reasons set forth in the R&R, IT IS FURTHER ORDERED that Defendants' Motion to Dismiss the Complaint pursuant to Rule 12(b)(6) (Docket No. 75) is GRANTED as to all remaining Plaintiffs; and,

IT IS FURTHER ORDERED that the Clerk of Court shall mark this case CLOSED.

s/ W. Scott Hardy
W. Scott Hardy
United States District Judge

cc: All counsel of record (*via ECF*)

Carl S. Jones, Jr. (*via U.S. mail*)
QK9540
SCI Coal Township
1 Kelley Drive
Coal Township, PA 17866

Anthony Lee, 75466
Courde Daye, 179147
Daelon Hill-Johnson, 180163
Daniel Miles, 142047
Devin Hale, 183220
Geron Anderson, 173396
Jaque David, 159376
Jermaine Dehonney, 163725
Juan Hayden, 19930
Mario Wall, 95319
Martell Smith, 46430
Roman Jones, 158919
Stephen Day, 96266
William Fielder, 109922

All of the above individuals (via U.S. mail) at the following:

Allegheny County Jail
950 Second Avenue
Pittsburgh, PA 15219